

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DAVID M. LUCK,

Petitioner,

-against-

9:04-CV-1001
(LEK/VEB)

WILLIAM PHILLIPS,

Respondent.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on by the Honorable Victor E. Bianchini, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New York. Report-Rec. (Dkt. No. 20). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Petitioner David M. Luck, which were filed on March 31, 2008. Objections (Dkt. No. 21).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge... may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation should be approved for the reasons stated therein.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 20) is **APPROVED** and
ADOPTED in its **ENTIRETY**; and it is further

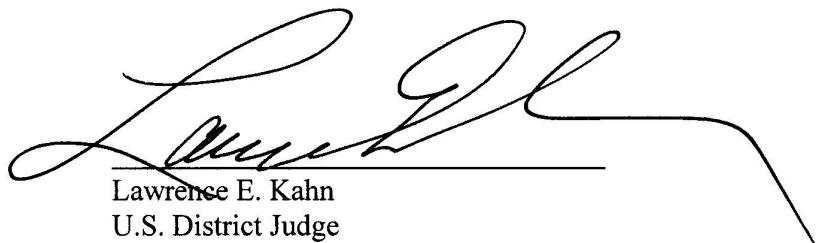
ORDERED, that Petitioner David M. Luck's Petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DENIED** and the Petition is **DISMISSED** in its entirety; and it is further

ORDERED, that a certificate of appealability pursuant to 28 U.S.C. § 2253(c)(2) is **DENIED**; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: March 31, 2007
Albany, New York



Lawrence E. Kahn
U.S. District Judge